

EXHIBIT 4

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

5 BNP PARIBAS,

6 Defendant.

Plea

7 -----x
8 New York, N.Y.
9 July 9, 2014
4:52 p.m.

10 Before:

11 HON. LORNA G. SCHOFIELD,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 BY: ANDREW D. GOLDSTEIN, ESQ.

MARTIN BELL, ESQ.

18 MICAH W.J. SMITH, ESQ.

Assistant United States Attorneys

19 U.S. DEPARTMENT OF JUSTICE

Asset Forfeiture and Money Laundering Section

20 BY: JENNIFER E. AMBUEHL, ESQ.

21 SULLIVAN & CROMWELL LLP

Attorneys for Defendant

22 BY: KAREN PATTON SEYMOUR, ESQ.

23 GEORGES DIRANI, Corporate Representative, BNP Paribas

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(In open court; case called)

THE DEPUTY CLERK: Counsel, please state your appearances for the record.

MR. GOLDSTEIN: Good afternoon, Judge Schofield. Andrew Goldstein for the government, and with me at counsel table is Assistant United States Attorney Martin Bell, Jennifer Ambuehl, who is a trial attorney for the Department of Justice, and Micah Smith from our office.

THE COURT: Good afternoon.

MS. SEYMOUR: And good afternoon, your Honor. It's Karen Seymour from Sullivan & Cromwell for the defendant BNP Paribas.

THE COURT: Good afternoon. And with you is?

MS. SEYMOUR: Is Georges Dirani, who's the general counsel from the client, your Honor.

THE COURT: Good afternoon, Mr. Dirani.

MR. DIRANI: Good afternoon.

THE COURT: You may be seated.

So I've been advised that BNP Paribas, which I'll refer to as the bank, wishes to waive indictment and plead guilty to Count One of an information. Is that right, Ms. Seymour?

MS. SEYMOUR: That's right, your Honor.

THE COURT: So Mr. Dirani, are you appearing on behalf of the bank to plead?

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1 MR. DIRANI: I am.

2 THE COURT: Do you read and understand English?

3 MR. DIRANI: Absolutely.

4 THE COURT: Okay. I'm going to ask you some questions
5 to ascertain that you are both competent and authorized to
6 enter a plea, so just answer the questions as completely and
7 honestly as you can.

8 Are you now or have you recently been under the care
9 or treatment of a doctor or a psychiatrist?

10 MR. DIRANI: No, your Honor.

11 THE COURT: In the past 24 hours have you taken any
12 drugs, medicine, pills, or drunk any alcohol?

13 MR. DIRANI: No, your Honor.

14 THE COURT: Is your mind clear today?

15 MR. DIRANI: Yes.

16 THE COURT: And do either counsel have any doubt as to
17 Mr. Dirani's competence to act on behalf of the bank today?

18 MS. SEYMOUR: No, your Honor.

19 MR. GOLDSTEIN: No, your Honor.

20 THE COURT: Okay. So Mr. Dirani, are you authorized
21 by the board of directors of the bank to enter a plea of guilty
22 on behalf of the bank?

23 MR. DIRANI: Yes, your Honor.

24 THE COURT: I'd like to mark as Court Exhibit 1 the
25 limited certificate of corporate resolution that had been

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1 appended to the proposed plea agreement which reflects your
2 authority.

3 My next question is: Is the board of directors
4 authorized to give you authority to enter into a plea of
5 guilty?

6 MR. DIRANI: Yes, your Honor.

7 THE COURT: And is that power conferred by both the
8 French Commercial Code and the bank's Articles of Association?

9 MR. DIRANI: Yes, your Honor.

10 THE COURT: To that end, I would like to mark as Court
11 Exhibit 2 Articles L225 through 35 of the French Commercial
12 Code; as Court Exhibit 3, Article 12 of the bank's Articles of
13 Association, both in English and in French; as Court Exhibit 4,
14 Article L225-56 of the French Commercial Code.

15 So on the basis of your answers and the documents --
16 and thank you very much, counsel, for getting them to me on
17 short notice -- I'm satisfied that Mr. Dirani is authorized to
18 enter a plea of guilty on behalf of the bank.

19 Is the bank financially able, Mr. Dirani, to pay the
20 substantial fine that could be imposed by the court for the
21 charge involved in the guilty plea as well as the forfeiture?

22 MR. DIRANI: Yes, it is, your Honor.

23 THE COURT: So I will mark as Court Exhibit 5 a press
24 release that I have been given by counsel for the defense dated
25 June 30, 2014, from the French regulatory authorities in

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1 English and in French, commenting both on the liquidity and the
2 solvency of the bank and redirecting its ability to pay, so
3 before we proceed with the waiver of indictment and the plea, I
4 will ask you more questions, and it's important that you answer
5 honestly and completely. The purpose of the questions is to
6 ensure that you understand the rights of the bank, that the
7 bank is waiving indictment and pleading guilty voluntarily, and
8 that the consequences of doing so are clear. It's also
9 important that you understand every question before you answer
10 it, so if you don't understand, please let me know and either I
11 or Ms. Seymour will explain.

12 Mr. Pecorino, would you administer the oath to
13 Mr. Dirani, please.

14 THE DEPUTY CLERK: Please raise your right hand.

15 (Mr. Dirani was duly sworn)

16 THE DEPUTY CLERK: Thank you.

17 THE COURT: Now, Mr. Dirani, do you understand that
18 you're now under oath and that if you answer my questions
19 falsely, your untrue answers may be later used against you in a
20 separate prosecution for perjury or making false statements?

21 MR. DIRANI: Yes.

22 THE COURT: Okay. So Ms. Seymour, are you or is
23 Sullivan & Cromwell counsel for the bank?

24 MS. SEYMOUR: Yes, your Honor.

25 THE COURT: Both or --

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1 MS. SEYMOUR: Both.

2 THE COURT: Okay. And Ms. Seymour, has the bank had a
3 full opportunity to discuss the case with you and discuss the
4 consequences of waiving indictment and pleading guilty?

5 MS. SEYMOUR: Yes, it has.

6 THE COURT: Mr. Dirani, has the bank discussed with
7 its attorneys the charges against it, including any defenses it
8 might have?

9 MR. DIRANI: Yes, your Honor.

10 THE COURT: And are you and the bank satisfied with
11 the bank's attorneys and their representation of the bank?

12 MR. DIRANI: Yes, your Honor.

13 THE COURT: Okay. You may be seated.

14 So now I want to explain the rights that the bank will
15 be giving up if it waives indictment. And then after I explain
16 the rights, I will ask you a few questions.

17 First, the bank has a constitutional right to be
18 charged by an indictment of a grand jury, but it can waive that
19 right and consent to being charged by information of the
20 government.

21 Second, instead of an indictment, this charge has been
22 brought by the government, by a prosecutor, by the filing of an
23 information. Unless the bank waives indictment, it may not be
24 charged with a felony unless a grand jury finds that there was
25 probable cause to believe that a crime has been committed and

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1 that the bank committed it. If you do not waive indictment on
2 behalf of the bank, the government may present the case to the
3 grand jury and ask it to indict the bank. The grand jury
4 consists of at least 16 and not more than 23 people, and at
5 least 12 grand jurors must find that there is probable cause to
6 believe that the bank committed the crime with which it's
7 charged before it may be indicted. The grand jury may or may
8 not indict the bank. If the bank waives indictment by the
9 grand jury, the case will proceed against it on the
10 prosecutor's information just as though the bank had been
11 indicted.

12 Mr. Dirani, has the bank and have you discussed
13 waiving the bank's right to indictment by the grand jury with
14 Ms. Seymour?

15 MR. DIRANI: Yes, your Honor.

16 THE COURT: And do you and the bank understand the
17 right to indictment by a grand jury?

18 MR. DIRANI: Yes.

19 THE COURT: Have any threats or promises been made to
20 induce the bank to waive indictment?

21 MR. DIRANI: No, your Honor.

22 THE COURT: Does the bank wish to waive indictment by
23 a grand jury?

24 MR. DIRANI: Yes, your Honor.

25 THE COURT: So questions both to the government and to

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1 Ms. Seymour: Is there any reason that the bank should not be
2 permitted to waive indictment?

3 MR. GOLDSTEIN: No, your Honor.

4 MS. SEYMOUR: No, your Honor.

5 THE COURT: And are you satisfied that the waiver is
6 knowing, voluntary, and intelligent?

7 MR. GOLDSTEIN: We are, your Honor.

8 MS. SEYMOUR: Yes, your Honor.

9 THE COURT: So I will mark as Court Exhibit 6 the
10 waiver of indictment, but I would first like to have Mr. Dirani
11 sign it. So Mr. Pecorino, if you could get the signatures,
12 please.

13 (Pause)

14 THE COURT: The court finds that the bank and its
15 representative are fully aware of the bank's right to require
16 the government to proceed by way of an indictment. The court
17 further finds that the waiver of indictment is freely,
18 intelligently, and voluntarily made. Therefore, the waiver is
19 accepted and so ordered.

20 So, Mr. Dirani, now that the bank has waived
21 indictment, I would like to discuss the guilty plea with you.

22 If the bank pleads guilty, it is giving up certain
23 rights, and I will explain those rights that the bank will be
24 giving up, and make sure that you understand them and that the
25 bank is voluntarily and freely waiving them.

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1 So if the bank pleaded not guilty, it would be
2 entitled to a speedy and public trial before a jury. If there
3 were a trial, the bank would be presumed innocent and the
4 government would have to prove the defendant's guilt by
5 competent evidence beyond a reasonable doubt. The bank would
6 not have to prove that it was innocent if it went to trial.

7 If there were a jury trial, the bank could not be
8 convicted unless a jury of 12 people all agreed that the bank
9 was guilty beyond a reasonable doubt. The bank would have the
10 right to be represented by an attorney throughout all
11 proceedings, including trial, if there is one.

12 If there were a trial, the bank would have the right
13 to see and hear all the witnesses against it, and the bank's
14 attorney could cross-examine them. The bank would have the
15 right to have its attorney object to the government's evidence
16 and offer evidence on the bank's behalf if it desired, and it
17 would have the right to have subpoenas issued or other process
18 used to compel witnesses to testify in its defense.

19 The bank has the right to plead not guilty.

20 Do you understand all the rights as I have just
21 described them?

22 MR. DIRANI: Yes, your Honor.

23 THE COURT: Okay. If you do plead guilty on behalf of
24 the bank and I accept that plea, you will be waiving the bank's
25 right to trial and all of the related rights that I've just

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1 described. If you plead guilty on behalf of the bank, there
2 will be no trial and I will enter a judgment of guilty and
3 sentence the bank on another day. Do you understand that?

4 MR. DIRANI: Yes, your Honor.

5 THE COURT: I also want you to understand the
6 consequences to you personally. I will ask you questions about
7 the offense, and if you knowingly give untruthful or misleading
8 answers to those questions under oath on the record and in the
9 presence of counsel, the answers may later be used against you
10 in a separate prosecution for perjury or for making false
11 statements. Do you understand that?

12 MR. DIRANI: Yes, your Honor.

13 THE COURT: Understanding the rights of the bank that
14 you will be giving up if you plead guilty on its behalf, and
15 your own potential liability for giving untruthful answers, do
16 you still wish to proceed?

17 MR. DIRANI: Yes, your Honor.

18 THE COURT: Okay. I have an Advice of Rights form
19 that I'd like Mr. Pecorino to bring to you and have you sign,
20 and I will mark it as Court Exhibit 7.

21 (Pause)

22 THE COURT: So, Mr. Dirani, now I'll review with you
23 the charges and the possible penalties. Have you received and
24 read the information which contains the charge against the
25 bank?

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1 MR. DIRANI: Yes, your Honor.

2 THE COURT: Do you understand that the bank is charged
3 with conspiracy to commit an offense against the United States
4 by conspiring to violate the International Emergency Economic
5 Powers Act and the Trading with the Enemy Act, and regulations
6 under each of those statutes?

7 MR. DIRANI: Yes, your Honor.

8 THE COURT: So let me ask the government: The
9 elements of the offense charged in Count One have been provided
10 to me in a writing. Have they also been provided to the bank?

11 MR. GOLDSTEIN: They have, your Honor.

12 THE COURT: Okay. Mr. Dirani, have you seen the
13 written list of elements?

14 MR. DIRANI: Yes, your Honor.

15 THE COURT: Okay. I will have that marked as Court
16 Exhibit 8.

17 Mr. Dirani, do you understand that if you, on behalf
18 of the bank, did not plead guilty to Count One of the
19 information, the government would have to prove each and every
20 element of that charge beyond a reasonable doubt at trial?

21 MR. DIRANI: Yes, your Honor.

22 THE COURT: Do you understand that the maximum
23 possible penalty for this crime is a maximum fine of the
24 greatest of 500,000, twice the gross pecuniary gain derived
25 from the offense, or twice the gross pecuniary loss to persons

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1 other than the bank resulting from the offense; also a maximum
2 term of five years' probation; and a mandatory special
3 assessment of \$400?

4 MR. DIRANI: Yes, your Honor.

5 THE COURT: If you plead guilty on behalf of the bank
6 to the forfeiture allegation that is in the information, do you
7 understand that I may also order the bank to forfeit the amount
8 traceable to the bank's violation in Count One, which I
9 understand is over \$8 billion US?

10 MR. DIRANI: Yes, your Honor.

11 THE COURT: I have reviewed the materials that the
12 bank and the government have submitted to me in connection with
13 the plea, including the plea agreement, including a stipulated
14 fine amount and a stipulated forfeiture amount, the
15 information, the written elements of the offense, the statement
16 of facts, agreements with other regulatory and law enforcement
17 authorities, a proposed preliminary order of forfeiture,
18 memoranda that the bank and government submitted on Monday at
19 my request. And I want to thank counsel. I'm very sorry it
20 happened over a holiday weekend. Your submissions were very
21 helpful, so thank you. And I've also reviewed the additional
22 documents provided by the bank on July 8th evidencing the
23 authority of the bank's board for the guilty plea.

24 In addition to these materials, in imposing sentence,
25 I'm also required to consider the recommendations of the

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1 Sentencing Guidelines, which are a set of rules and
2 recommendations for determining an appropriate sentence. But
3 in the end, I'm required to impose a sentence that I believe
4 best satisfies the purposes of the criminal law based on
5 certain factors set forth in the law in 18 United States Code
6 Section 3553(a). The plea agreement, including the guidelines
7 stipulation agreement and the appropriate sentence, are not
8 binding on me unless and until I accept the plea agreement. I
9 may accept, reject, or defer that decision. If I accept the
10 plea agreement, I will sentence the bank according to its terms
11 on another day. If I accept that agreement, the bank will not
12 be able to withdraw its plea. If I reject the plea agreement,
13 the bank will be permitted to withdraw its plea, but my
14 rejection is the only condition under which the bank would be
15 able to do that. Do you understand that?

16 MR. DIRANI: Yes, your Honor.

17 THE COURT: Okay. So I have a copy of the plea
18 agreement. I believe Mr. Pecorino also has the original plea
19 agreement dated June 27, 2014, between the bank and the
20 government. I will have it marked as Court Exhibit 9.

21 Mr. Dirani, did you sign the plea agreement on behalf
22 of the bank?

23 MR. DIRANI: Yes, your Honor.

24 THE COURT: And is that pursuant to your delegation of
25 authority from the board as reflected in the resolution which

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1 is Court Exhibit 1?

2 MR. DIRANI: Yes, your Honor.

3 THE COURT: Ms. Seymour, have you reviewed the
4 agreement with the bank?

5 MS. SEYMOUR: Yes, your Honor.

6 THE COURT: And is the plea agreement, Mr. Dirani, the
7 entire agreement between the bank and the US government?

8 MR. DIRANI: Yes, your Honor.

9 THE COURT: Did anyone threaten, coerce, or force the
10 bank to enter into the plea agreement?

11 MR. DIRANI: No, your Honor.

12 THE COURT: Other than what is contained in the plea
13 agreement and the agreements with other regulators and law
14 enforcement authorities, has anyone promised or offered the
15 bank any inducement for the bank to enter into the plea
16 agreement and plead guilty?

17 MR. DIRANI: No, your Honor.

18 THE COURT: Has anyone promised that the court will
19 approve the plea agreement?

20 MR. DIRANI: No, your Honor.

21 THE COURT: So in the agreement the bank and the
22 government have stipulated to the appropriate calculation of
23 the sentencing range under the guidelines, and the bank and the
24 government have also stipulated to a fixed amount for fine and
25 a forfeiture. Is that right, Mr. Dirani?

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1 MR. DIRANI: Yes, your Honor.

2 THE COURT: So as I read it, the stipulated fine
3 amount is 140 million US dollars, representing twice the amount
4 of pecuniary gain to the bank as a result of the offense. The
5 stipulated probation term is five years. And there is also a
6 stipulated forfeiture amount of \$8,833,600,000, representing
7 the amount of proceeds traceable to the offense. Is that
8 right, Mr. Dirani?

9 MR. DIRANI: Yes, your Honor.

10 THE COURT: Do you understand that these stipulations
11 in the plea agreement are binding on the bank and the
12 government but are not binding on me?

13 MR. DIRANI: Yes, your Honor.

14 THE COURT: Do you also understand that under certain
15 circumstances both the bank and the government have the right
16 to appeal any sentence I might impose subject to the terms of
17 the plea agreement but that under that agreement, you're giving
18 up the bank's right to appeal or otherwise challenge the bank's
19 sentence so long as I sentence the bank in accordance with the
20 agreement?

21 MR. DIRANI: Yes, your Honor.

22 THE COURT: The plea agreement states that the bank
23 will immediately file an application for prohibited transaction
24 exemption with the US Department of Labor, requesting that the
25 bank be allowed to continue to be a qualified professional

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1 asset manager pursuant to Prohibited Transaction Exemption
2 8414. And this is a question either for Mr. Dirani or
3 Ms. Seymour: What is the qualification that the bank is
4 seeking to continue?

5 MS. SEYMOUR: Your Honor, this is what's called a
6 QPAM --

7 THE COURT: If you could just pull the mic up to the
8 edge of the table, point it straight up, and then you can stand
9 up straight and I can hear you and everyone else will as well.

10 MS. SEYMOUR: Sure. Thank you, your Honor.

11 It's called a QPAM exemption -- a Qualified
12 Professional Asset Manager exemption -- and that will allow the
13 bank and its affiliates to continue to act as an asset manager
14 for funds, such as pension funds and things like that.
15 Otherwise, if that exemption is not granted by the Department
16 of Labor, at the time of conviction at sentencing, then those
17 funds would not be able to continue to maintain their business
18 with the bank.

19 THE COURT: Okay. Thank you. I understand.

20 So the plea agreement further provides that the
21 government agrees to support any motion by the bank that
22 sentencing be adjourned until the Department of Labor has
23 issued a ruling on the request. And could you explain why that
24 is. I think you may have just answered it by explaining the
25 relationship between the conviction and the implications

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1 without the exception, but --

2 MS. SEYMOUR: Yes, your Honor. So it would not be
3 possible for the bank to continue to maintain this business if
4 we proceeded to sentencing forthwith without having this
5 exemption granted. The Department of Labor typically takes,
6 we're told, between four to six months to have an exemption
7 granted. We had sought expedited relief so that it could be
8 done more quickly, but we do not yet have an indication from
9 the Department of Labor of how long that will take. So this
10 was something that the parties negotiated as part of the plea
11 agreement.

12 THE COURT: Okay. Thank you.

13 The plea agreement also states that if the Department
14 of Labor acts adversely to the bank, the bank cannot withdraw
15 its plea or be released from any of its obligations under the
16 agreement. Do you understand that and agree to that on behalf
17 of the bank, Mr. Dirani?

18 MR. DIRANI: Yes, your Honor.

19 THE COURT: Okay. So would the government please
20 summarize what it would expect to prove if the case went to
21 trial. And please include how it would prove criminal intent
22 in this case by a corporate entity.

23 MR. GOLDSTEIN: Yes, your Honor.

24 THE COURT: And let me ask you to pull the mic all the
25 way up to the edge of the table and point it straight up. The

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1 acoustics are not great. Thank you.

2 MR. GOLDSTEIN: Thank you, your Honor.

3 And I can also just say, with regard to the Department
4 of Labor issue, that we've confirmed with the Department of
5 Labor that the bank did on June 30th submit an application
6 for that exemption, in accordance with the plea agreement.

7 THE COURT: Okay. Thank you.

8 MR. GOLDSTEIN: If the case were to proceed to trial,
9 the government would establish beyond a reasonable doubt each
10 element of the offense charged in the information. It would
11 also be able to prove, above and beyond that, the facts that
12 are set forth in the statement of facts that were attached to
13 the plea agreement.

14 The government's evidence would include, among other
15 things, internal bank e-mails and communications, wire transfer
16 records, other financial transaction records, and testimony
17 from multiple witnesses both in the United States and overseas.
18 In summary, the evidence would establish that BNPP, or BNP
19 Paribas, engaged in a long-running conspiracy to violate the US
20 embargoes against Sudan, Iran, and Cuba, and that BNP Paribas
21 played the pivotal role in that conspiracy. It was BNP
22 Paribas's access to the US dollar markets and BNP Paribas's
23 willingness to employ elaborate and sophisticated techniques to
24 evade US sanctions on behalf of its clients that enabled the
25 conspiracy to succeed.

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1 The evidence would also show -- and this is in regard
2 to your question about intent -- that senior officials at the
3 bank knew about the illicit transactions and allowed them to
4 continue.

5 As set forth in the statement of facts, there are two
6 objects to the charged conspiracy. The first object pertains
7 to the violation of the IEEPA, the International Emergency
8 Economic Powers Act, and that pertains to the sanctions against
9 Sudan and Iran. And with regard to those transactions, and
10 with regard to the willfulness of actors at the bank, the
11 government would point the court in the statement of facts to
12 paragraphs 32, 33, 37 through 39 for Sudan, and 46 and 48 for
13 Iran.

14 And with regard to the second object of the
15 conspiracy, which pertains to the objective of violating the
16 Trading with the Enemy Act, which pertains to the sanctions
17 against Cuba, the government would call the court's attention
18 to paragraphs 56, 57, 58, 61, and 63 through 69 of the
19 statement of facts. And what those paragraphs show, your
20 Honor, is that for all aspects of this conspiracy, there were
21 individuals at BNP Paribas who were senior compliance, legal
22 and business managers at the bank who knowingly and wilfully
23 engaged in the transactions at issue, and the government's
24 evidence in support of that would consist of e-mails evidencing
25 the knowledge and the willfulness of the participants of the

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1 conspiracy at the bank, the transactions themselves, legal
2 opinions that the bank received that laid out for the bank the
3 illegality of these transactions, and then discussions at the
4 bank as reflected in both e-mails and memos from credit
5 committees at the bank that came after those legal opinions
6 were received, where the bank willingly chose to continue to
7 engage in these transactions, in these unlawful transactions.

8 With regard to just the basic elements of the
9 offenses, the transactions at issue that are set forth in the
10 statement of facts, they all would have required a license to
11 have been issued by the Department of Treasury's Office of
12 Foreign Assets Control in order for them to be lawful, and none
13 of the transactions that are laid out in the statement of facts
14 did in fact receive a license. And that goes for all three
15 areas of transactions for Sudan, Iran, and for Cuba.

16 The government's evidence in total would show, based
17 on the transaction records and witness testimony, that on the
18 whole, BNPP, BNP Paribas, knowingly and wilfully processed
19 illicit US dollar transactions with the following dollar
20 amounts: for Sudan, \$6.4 billion; for Iran, \$686.6 million; and
21 for Cuba, \$1.747 billion.

22 And then lastly, your Honor, with regard to venue, the
23 transactions at issue were processed largely, if not entirely,
24 through either BNP Paribas's New York branch or through
25 unaffiliated banks located in New York, New York, as the

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1 transactions were cleared through the United States.

2 If your Honor has any other questions, I'd be happy to
3 answer them.

4 THE COURT: Okay. Thank you. That's a very useful
5 summary, and I of course have the statement of facts for a more
6 complete statement.

7 So Mr. Dirani, you heard what Mr. Goldstein said.
8 There were a lot of statements, plus we have what's in the
9 statement of facts. Are those statements accurate?

10 MR. DIRANI: Yes, your Honor.

11 THE COURT: So if you could stand now, I'd like you to
12 tell me what the bank did that makes you believe that it is
13 guilty of the crime to which it is pleading guilty.

14 MR. DIRANI: Yes, your Honor.

15 On behalf of BNP Paribas, I affirm that BNP Paribas is
16 guilty of conspiring to commit an offense against the United
17 States, in violation of Title 18 United States Code
18 Section 371. From at least 2004 through 2012, BNP Paribas
19 conspired to violate the International Emergency Economic
20 Powers Act and the Trading with the Enemy Act.

21 BNP Paribas admits to all of the facts contained in
22 the statement of facts that is attached as Exhibit B to the
23 plea agreement, and BNP Paribas further admits to all of the
24 allegations in the information. The facts and allegations set
25 forth in the statement of facts and information are fully

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1 incorporated into this statement I am making here.

2 BNP Paribas further admits that:

3 From 2004 up through and including 2012, it entered
4 into an unlawful agreement with banks and other entities
5 located in or controlled by Sudan and Iran to violate US
6 executive orders prohibiting the exportation, directly and
7 indirectly, of services from the United States to Sudan and
8 Iran. BNP Paribas knowingly and wilfully exported services
9 from the United States to persons and entities located in and
10 controlled by the government of Sudan and to persons and
11 entities located in Iran, by, among other things, structuring,
12 conducting, and concealing US dollar transactions using the US
13 financial system on behalf of banks and other entities located
14 in or controlled by Sudan and Iran.

15 The transactions engaged in by BNP Paribas as part of
16 this conspiracy required a license from OFAC.

17 BNP Paribas engaged in these transactions without
18 first obtaining a license from OFAC.

19 BNP Paribas knowingly and wilfully joined the
20 conspiracy, and its actions to violate the Sudanese Sanction
21 Regulations and the Iranian Transactions and Sanctions
22 Regulations were done wilfully, with the intent to violate the
23 law.

24 In furtherance of this conspiracy and to effect its
25 illegal objects, BNP Paribas, in or about December 2006,

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1 through its subsidiary based in Geneva, Switzerland, caused an
2 unaffiliated US financial institution located in New York to
3 process approximately \$10 million transaction involving an
4 entity in Sudan subject to US economic sanctions. BNP Paribas
5 caused this transaction by concealing from the unaffiliated
6 financial institution the involvement of the sanctioned entity.

7 Also, in furtherance of the conspiracy and to effect
8 its illegal object, in or about November 2012, BNP Paribas
9 processed an approximately \$6.5 million US dollars transaction
10 on behalf of a corporation controlled by an Iranian entity
11 through BNP Paribas' branch in New York.

12 From 2004 up through and including 2010, BNP Paribas
13 entered into an unlawful agreement with banks and other
14 entities located in or controlled by Cuba or Cuban nationals
15 by, among other things, structuring, conducting, and concealing
16 US dollars transactions using the US financial system on behalf
17 of banks and other entities controlled by Cuba.

18 The transaction engaged in by BNP Paribas as part of
19 this conspiracy required a license from OFAC.

20 BNP Paribas engaged in these transactions without
21 first obtaining license from OFAC.

22 BNP Paribas knowingly and wilfully joined the
23 conspiracy, and its actions to violate the Cuban Assets Control
24 Regulations were done wilfully, with the intent to violate the
25 law.

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1 In furtherance of the conspiracy and to effect its
2 illegal object, on or about November 24, 2009, BNP Paribas
3 processed an approximately \$213,027 US dollars transaction
4 through BNP Paribas's branch in New York in connection with a
5 US dollar denominated credit facility that provided financing
6 to various entities in Cuba that were subject to US economic
7 sanctions.

8 The above actions and conduct were committed by
9 numerous BNP Paribas employees who, in committing the offense,
10 intended to benefit BNP Paribas and were acting within the
11 scope of their employment.

12 THE COURT: Okay. Thank you.

13 Mr. Dirani, were these knowing violations of the law?

14 MR. DIRANI: Yes, your Honor.

15 THE COURT: Did anyone threaten or coerce or force BNP
16 Paribas or its employees and representatives to do these
17 things?

18 MR. DIRANI: No, your Honor.

19 THE COURT: Mr. Goldstein, do you believe that there
20 is a sufficient factual predicate for a guilty plea?

21 MR. GOLDSTEIN: I do, your Honor.

22 THE COURT: And Ms. Seymour, do you agree?

23 MS. SEYMOUR: Yes, your Honor.

24 THE COURT: Are there any additional questions either
25 of you would like me to ask?

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1 MR. GOLDSTEIN: Not from the government, your Honor.

2 MS. SEYMOUR: No, your Honor.

3 THE COURT: Okay. Ms. Seymour, do you know of any
4 valid defense that would prevail at trial or any reason why
5 your client, the bank, should not be permitted to plead guilty?

6 MS. SEYMOUR: No, your Honor.

7 THE COURT: Okay. Mr. Dirani, I will take the bank's
8 plea now. How do you, on behalf of the bank, plead to the
9 charge in Count One of the information, guilty or not guilty?

10 MR. DIRANI: Guilty, your Honor.

11 THE COURT: Is the bank in fact guilty of that charge?

12 MR. DIRANI: Yes, your Honor.

13 THE COURT: Is the plea that you are giving now
14 voluntary and freely given?

15 MR. DIRANI: Yes, your Honor.

16 THE COURT: Do you, on behalf of the bank, admit the
17 forfeiture allegation that is contained in the information that
18 the bank will forfeit proceeds traceable to the offense in the
19 amount of 8,833,600,000 US dollars?

20 MR. DIRANI: Yes, your Honor.

21 THE COURT: Okay. Thank you. You may be seated.

22 On the basis of your responses to my questions and my
23 observations of these proceedings, I am satisfied that the
24 defendant, BNP Paribas, S.A., is waiving its rights knowingly
25 and voluntarily, with an understanding of the consequences of

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1 this guilty plea, including the potential sentence that may be
2 imposed. that the defendant is voluntarily pleading guilty,
3 that the defendant by its representative, Mr. Dirani, has
4 admitted that it is guilty as charged in Count One of the
5 information, and that the plea is knowing and voluntary and is
6 supported by an independent factual basis as to each and every
7 element of the crime charged. I also find that the bank has
8 agreed to forfeit assets knowingly and voluntarily and,
9 accordingly, I accept the defendant's guilty plea and adjudge
10 the defendant guilty of the charge in Count One of the
11 information.

12 Now, Mr. Dirani, I understand from the plea agreement
13 that you wish to waive the bank's right to the preparation of a
14 presentence report. The report is usually prepared by the
15 probation department after interviewing the defendant and its
16 representatives and obtaining a summary of the case from the
17 government and statements of relevant information from third
18 parties. Typically I don't have all the information that I do
19 here and so I usually rely very heavily on the presentence
20 report at the sentencing, but in a case like this, I would rely
21 on it in deciding on the plea agreement. Knowing all that, do
22 you still wish to waive the bank's right to the preparation of
23 a presentence report?

24 MR. DIRANI: Yes, your Honor.

25 THE COURT: I accept your waiver in light of the

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1 substantial information that you and your counsel and the
2 government have already submitted to me.

3 Now in considering the plea agreement, I have a number
4 of questions, so let me ask them.

5 My first question is -- and I'll let either the
6 government or Ms. Seymour answer, as is appropriate -- the
7 total forfeiture amount is about \$8.8 billion -- 6.4 billion
8 with respect to Sudanese entities, and about 700 million with
9 respect to Iranian entities, and 1.7 billion with respect to
10 Cuban entities, and these are all stipulated numbers in the
11 statement of facts. My question is: Where do the numbers come
12 from and how am I to rely on these numbers? How do we know
13 that they shouldn't be larger numbers or smaller numbers?

14 MR. GOLDSTEIN: I can address that in the first
15 instance, your Honor.

16 THE COURT: Okay.

17 MR. GOLDSTEIN: During the course of the government's
18 investigation and the bank's own internal investigation, the
19 bank retained or the bank's counsel retained consulting firms
20 to do a comprehensive transaction analysis where they reviewed
21 thousands upon thousands of transactions engaged in by the bank
22 during the course of the review period and provided to the
23 government the results of that analysis. And the government
24 also interviewed the individuals who ran the analysis on behalf
25 of the consulting firms. And through looking at that analysis

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1 and then through the government's own judgment, in view of the
2 facts, in terms of when the bank's conduct became willful, we
3 were able to approximate the dollar values that your Honor just
4 recounted, which is that, as laid out in the statement of
5 facts, for the Sudanese transactions, the government believes
6 that, based on the factual record, that the bank's conduct
7 became willful in or about July of 2006, and based on the
8 transaction analysis performed under the auspices of outside
9 counsel for the bank and by the consultants, we believe that
10 the dollar value until those transactions ended amounted to
11 approximately \$6.4 billion. And similarly for the Iranian
12 transactions and the Cuban transactions, the dollar value that
13 your Honor has recounted is based on the time period of those
14 transactions where the government believes and the defendant
15 has admitted that the conduct was willful. There were
16 additional transactions --

17 THE COURT: Can I interrupt. How did you know you had
18 all the relevant transactions?

19 MR. GOLDSTEIN: Obviously the government was relying
20 on the cooperation of the bank, but in doing its due diligence,
21 we had extensive interviews with the individuals who performed
22 the analysis, and we have confidence that the numbers are
23 accurate.

24 THE COURT: Okay. So it was based in part on
25 cooperation from the bank, and the bank cooperated from an

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1 early date in providing information?

2 MR. GOLDSTEIN: That's correct, your Honor.

3 THE COURT: Okay. Thank you.

4 Ms. Seymour, is there anything that you'd like to add?

5 MS. SEYMOUR: No, your Honor.

6 THE COURT: Okay. So the total forfeiture amount, as
7 we've been discussing it, is about 8.8 billion, and under the
8 plea agreement that is payable to four entities. About half,
9 as I read it, was payable to two state entities and half to two
10 federal entities, one being the Federal Reserve and the other
11 being the amount of the forfeiture in this action. So perhaps
12 this is just a technical question, but in the information, the
13 forfeiture allegation says that the defendant will forfeit the
14 amount "to the United States," and I'm curious why the Federal
15 Reserve is a separate entity from the United States.

16 MR. GOLDSTEIN: We don't believe the Federal Reserve
17 is a separate entity from the United States, your Honor. The
18 way that the preliminary order of forfeiture and the plea
19 agreement is written is that the bank is agreeing to a money
20 judgment in the amount of the total forfeiture amount but the
21 government, in the course of negotiating this plea and in the
22 interests of achieving a global resolution with all of the
23 investigating entities and the regulators, has agreed to credit
24 the payments that are made to the Federal Reserve and to the
25 New York State Department of Financial Services, in connection

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1 with the state court plea, and that's how we end up having the
2 one larger number with the credited amounts falling underneath
3 that.

4 THE COURT: And why is there a separate amount to the
5 Federal Reserve? Maybe that's a different way of putting my
6 question.

7 MR. GOLDSTEIN: Under the cease and desist order with
8 the Federal Reserve, as we read it, that amount is required as
9 a separate penalty that needs to be paid. It's paid to the
10 United States but it's paid separately in connection with that
11 cease and desist order.

12 THE COURT: Okay. And so the amount that's actually
13 payable to the United States in connection with the forfeiture
14 related to this plea agreement is how much?

15 MR. GOLDSTEIN: So --

16 THE COURT: Ballpark.

17 MR. GOLDSTEIN: It's the \$8.8 billion minus the
18 approximately \$4½ billion that will go to the state, minus the
19 \$508 million that is geared for the Federal Reserve payment,
20 which leaves, ballpark, about \$3.8 billion remaining payments
21 that would be directly paid under this money judgment to the
22 United States.

23 THE COURT: And where will the \$3.8 billion payable to
24 the United States go?

25 MR. GOLDSTEIN: In the first instance, as set forth in

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1 the preliminary order of forfeiture, it will go into a Treasury
2 suspense account that is an account that will be maintained
3 pending the final resolution of this matter. Then it's my
4 understanding that it will then go into the Treasury's
5 forfeiture account, which will then be used in accordance with
6 the rules and regulations that govern that account.

7 THE COURT: And I don't expect you to recite the rules
8 and regulations, but what happens to the money in that account?
9 Sorry to put you on the spot.

10 MR. GOLDSTEIN: There's a process by which victims of
11 crimes can make petitions for remission, to be able to be
12 compensated. My understanding is that if the money is not
13 needed to compensate victims, at some point the money ends up
14 essentially being used as general US Treasury funds or can be
15 used by the Congress and the government as general funds.

16 THE COURT: Okay. Thank you.

17 The statement of facts says that delays by the bank in
18 providing the government with information until May 2013
19 "significantly impacted the government's ability to bring
20 charges against responsible individuals, Sudanese sanctioned
21 entities, and the satellite banks." So it appears that many
22 other entities and persons were involved in the transactions.
23 Considering all of these actors together, what is the bank's
24 relative culpability in this conspiracy?

25 MR. GOLDSTEIN: We believe the bank is principally

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1 culpable, your Honor, and as I alluded to earlier in discussing
2 the proffer of proof, it was BNP Paribas that was at the center
3 of this conspiracy, and that enabled the sanctioned entities
4 access to the US dollar system that those entities would not
5 otherwise have had. The government of Sudan and entities tied
6 to the government of Sudan are co-conspirators, but without BNP
7 acting effectively as its US central banker, it would not have
8 had access to the US dollar markets and to be able to do
9 transactions in US dollars, and so the other entities, the
10 satellite banks that are referenced, were essentially used by
11 BNP Paribas to create a structure that enabled the transactions
12 to go undetected, but their role is significantly less than BNP
13 Paribas, which is the one that was actually structuring the
14 transactions in the first place.

15 THE COURT: So there are obviously entities whose
16 intent and whose actions are being ascribed to the bank. Is
17 the investigation still ongoing with respect to other persons
18 and entities or is this the only prosecution that you expect?

19 MR. GOLDSTEIN: The investigation is ongoing, your
20 Honor.

21 THE COURT: Okay. The fine of 140 million is
22 represented to be two times the profits of the bank from the
23 illegal activity. How do you know what percentage of the
24 monies in the transactions that were studied represent profits
25 to the bank?

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1 MR. GOLDSTEIN: That, your Honor, is a representation
2 from the bank that we believe should be credited. The number
3 represents profit in a very narrow sense, which is the
4 transaction fees that the bank charged in the course of
5 engaging in all of the illicit conduct, and not just for the
6 transactions that were willful but all of the transactions
7 during the time period violating US sanctions. The bank has
8 estimated that, and in conversations with the bank's counsel,
9 we have no reason to doubt that \$70 million is an accurate
10 number. Certainly the benefit to the bank in a broader sense
11 in terms of relationships with customers and other broader
12 financial benefits to engaging in these transactions are not
13 included in that number, but in light of the obviously very
14 sizeable forfeiture amount, we believe that a fine that is
15 twice the actual transaction fee profit to the bank is an
16 appropriate measure for a fine.

17 THE COURT: Okay. Thank you.

18 So on the basis of the documents submitted to the
19 court and the answers to my questions today, I'm satisfied that
20 the plea agreement is appropriate and reasonable in light of
21 the charged conduct in this case.

22 First, the charge to which the defendant pleads
23 guilty, one count of conspiracy to commit an offense against
24 the United States for conspiring to violate the International
25 Emergency Economic Powers Act and the Trading with the Enemy

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1 Act, is proper given the defendant's conduct. The conduct
2 consisted of the covert processing and transfer of billions of
3 dollars to and from entities in Sudan, Iran, and Cuba, in
4 direct contravention of the US sanctions regime. Defendants'
5 actions not only flouted US foreign policy but also provided
6 support to governments that threaten both our regional and
7 national security and, in the case of Sudan, a government that
8 has committed flagrant human rights abuses and has known links
9 to terrorism. I find that the severity of the defendant's
10 conduct more than warrants the criminal charge to which had it
11 has pleaded.

12 Second, the forfeiture amount appropriately penalizes
13 the conduct I've just described. While that sum is admittedly
14 large, at over 8 billion US dollars, it corresponds to the full
15 amount of the criminal proceeds traceable to the conspiracy,
16 and as I understand from the submissions to the court and what
17 I've heard today, this bears a direct relation to the conduct
18 at issue. In addition, the forfeiture amount will surely have
19 a deterrent effect on others that may be tempted to engage in
20 similar conduct, all of whom should be aware that no financial
21 institution is immune from the rule of law.

22 Third, for substantially the same reasons that I find
23 the forfeiture amount to be appropriate, I consider the fine of
24 140 million US dollars to be fair. It represents double the
25 amount of profit generated by the bank's unlawful actions. I

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1 also find that the fine is consistent with the public policies
2 expressed in the US criminal laws and the Sentencing
3 Guidelines.

4 Finally, I consider that the terms of the five-year
5 probation are fair, particularly because they require the
6 defendant to enhance its compliance policies and rules, which
7 should help to ensure that any future unlawful conduct is
8 prevented.

9 Accordingly, pursuant to Federal Rules of Criminal
10 Procedure and in particular Rule 11(c)(1)(C), I approve the
11 plea agreement.

12 And I would now like to ask a question about the
13 proposed form of order you've submitted. I have a preliminary
14 order of forfeiture from you. Typically I would just sign an
15 order of forfeiture at the sentencing. I understand that
16 certain consequences flow from my signing a preliminary order
17 of forfeiture, but I'd like to hear why I should sign such a
18 document now and not just wait until the sentencing.

19 MR. GOLDSTEIN: Your Honor, the order of forfeiture
20 does make clear that if the court had not accepted the plea
21 agreement that it would not be effective, but pursuant to the
22 order of forfeiture, the bank would be required to pay the full
23 remaining amount of the forfeiture under the money judgment
24 within 30 days of the execution of the plea agreement, which
25 was 30 days as of June 30th, and so by so ordering the

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1 forfeiture order now, that would put that into effect. It
2 would make it so that the government would then essentially
3 become the custodian of the forfeiture amount pending
4 sentencing of the court. The government agreed in the plea
5 agreement, because of the potential unwarranted collateral
6 consequences to the bank's US financial managers that were
7 entirely unrelated to the conspiracy that's at issue here, to
8 adjourn sentencing for a period of time. As a result of that
9 adjournment, which may be, you know, three, four, five, six
10 months, we believe that it's in the government's interest and
11 the public interest that the amount be forfeited and that that
12 be done now or within 30 days so that all that needs to happen
13 at sentencing is for judgment to ensue.

14 THE COURT: Okay. Thank you. In light of those
15 representations, I will sign the preliminary order of
16 forfeiture, and I will docket it once we have a docket number,
17 which will be as soon as the information is filed.

18 Do the parties have a proposed date for sentencing? I
19 know it's somewhat up in the air, given these other
20 contingencies.

21 MR. GOLDSTEIN: I believe, in consultation with the
22 court's deputy, we ask that the court set a control date for
23 sentencing for October 3rd at 2 p.m., and if the Department
24 of Labor resolution has happened prior to that point, we would
25 expect to go forward and we would inform the court in advance,

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1 and if there's a reason to further adjourn it, we would also
2 inform the court in advance at that point.

3 THE COURT: Okay. So I will schedule the sentencing
4 for October 3rd at 2 p.m., but I'll await some communication
5 from you as to whether we're really going forward on that date.

6 Mr. Dirani, the bank and your lawyer will have the
7 right to speak at the sentencing on October 3rd.

8 Is there anything else we need to take care of today?

9 MS. SEYMOUR: No, your Honor.

10 MR. GOLDSTEIN: No, your Honor. Thank you very much.

11 THE COURT: Okay. Thank you. We're adjourned.

12 THE DEPUTY CLERK: All rise.

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